

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

December 18, 2006

CALL TO PODIUM:

**Greg Ossont, Director
Planning and Code
Administration**

RESPONSIBLE STAFF:

**Greg Ossont, Director
Planning and Code
Administration**

Jacqueline Marsh, Planner

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
X	Policy Discussion
	Work Session Discussion Item
X	Other: Final Action

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	9-15-06
	9-20-06
Hearing Date	10-3-06
Record Held Open	11-1-06
Policy Discussion	12-18-06

TITLE: SDP-06-003

Amend to Schematic Development Plan, SDP-L5, Lakelands Lane in the Woods. The subject property is located in the Lakelands subdivision and is in the Mixed Use Development (MXD) Zone.

SUPPORTING BACKGROUND:

At their meeting of October 18, 2006, the Planning Commission recommended approval of this SDP amendment to the Mayor and City Council.

Attached is the Index of Memoranda and the additional exhibits received since the joint public hearing on October 3, 2006, and prior to the closing of the City Council's record on November 1, 2006. These exhibits are listed in bold type on the Index of Memoranda.

Should the Mayor and City Council wish to approve SDP-06-003, staff has drafted and attached a resolution of approval. The resolution has been reviewed by the City Attorney and is ready for adoption.

Attached:
Index of Memoranda
Exhibits

DESIRED OUTCOME:

Conduct policy discussion.

Resolution is ready for final action.

Joint Public Hearing – October 3, 2006

Planning Commission Recommendation – October 18, 2006

Index of Memoranda
SDP-06-003
Lakelands – Lane in the Woods
Phase 3, Section 2

Number	Exhibit
1.	Application
2.	Site location map
3.	Letter from Randy Frey of Rodgers Consulting, dated August 10, 2006
4.	Notice to include legal ad for Joint Public Hearing, in the September 15 and 20, 2006, issues of the <i>Gaithersburg Gazette</i>
5.	Public Hearing notice, sent September 11, 2006, to required parties
6.	Letter from Randy Frey, dated September 6, 2006
7.	Letter from Greg Ossont of the Planning and Code Administration, dated April 5, 2006
8.	Letter from Chuck Sullivan of Classic Communities, dated September 13, 2004
9.	Letter from Gregory Zweibel of Sport Systems, dated September 10, 2000
10.	Letter from Chuck Sullivan, dated October 7, 2004
11.	Letter from Deborah Durham of Lakelands Community Association, dated May 16, 2006
12.	Letter from Deborah Durham, dated May 31, 2006
13.	E-mail correspondence between Gary Unterberg of Rodgers Consulting, and George Harrison of U.S. Army Corps of Engineers, dates August 28, 2002 and October 3, 2002
14.	Letter from Walter Washington, Jr. of U.S. Army Corps of Engineers, dated May 8, 2003

15. Photograph of area near Path Marker #9 on Muddy Branch Path
16. Photograph of area near Path Marker #9 on Muddy Branch Path
17. SDP-06-003 – Overall Pathway Plan
18. SDP-06-003 – Muddy Branch Trail Signage
19. SDP-06-003 – Muddy Branch Trail Signage
20. SDP-06-003 – Cover Sheet/Land Use Plan
21. SDP-06-003 – Schematic Development Plan
22. SDP-06-003 – Schematic Development Plan
23. SDP-06-003 – Schematic Development Plan
24. SDP-06-003 – Boundary Survey
25. SDP-06-003 – Traffic Circulation and Pathway Plan
26. SDP-06-003 – Preliminary Grade Establish Plan
27. SDP-06-003 – Preliminary Grade Establish Plan
28. SDP-06-003 – Landscape/Lighting Plan
29. SDP-06-003 – Landscape/Lighting Plan
30. SDP-06-003 – Landscape/Lighting Plan
31. SDP-06-003 – Preliminary Forest Conservation Plan
32. SDP-06-003 – Storm water Management Concept/Soils Map Plan
33. SDP-06-003 – NRI/FSD
- 34. Letter from Ed McGowan, dated June 6, 2002 (referenced in testimony, October 3, 2006)**
- 35. Staff Analysis**
- 36. E-mail correspondence between Patrick McCalley and Greg Ossont, dated October 12, 2006**

- 36. E-mail correspondence between Patrick McCalley and Greg Ossont, dated October 12, 2006**
- 37. Cover Sheet from October 18, 2006, Planning Commission meeting**
- 38. CPC Planning Commission's Recommendation of October 18, 2006**
- 39. Minutes from October 18, 2006, Planning Commission meeting**
- 40. Draft Resolution of the Mayor and City Council approving SDP-06-003**

935 Linslade Close
Gaithersburg, MD 20878

June 6, 2002

Planning and Code Administration
The City of Gaithersburg
31 South Summit Avenue
Gaithersburg, MD 20877-2098

Ed McGowan
301 519 1388
(C) 240 304 1111

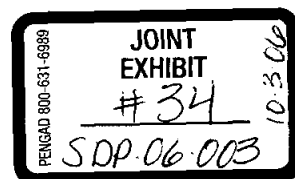
RE: Release of Developers' Bond

Dear Planning and Code Administration:

As property owners in Section 1 of the Lakelands development, we object to the release of the developers' bond until all of the following deficiencies are corrected or are in place in their entirety. Comments regarding items are as follows.

Linslade Close:

- The asphalt around catch basin in back right corner of street is failing. This condition is probably due to sub-standard compaction.
- The radius of the pavement on both back corners is too short. The rear wheels of all the delivery vehicles turning corners leave the pavement and have destroyed the grass in this area. This has created two muddy eyesores.
- The grass is in deteriorated condition and requires resodding with grass that will continue to grow under very heavy use of the area.
- There are many dead or deteriorated shrubs. They require replacement or heavy cut back.
- The crown in one of the larger trees is dead. This tree should be replaced. The dead limbs on the other trees need to be pruned.
- The landscaped areas require maintenance.



Planning and Code Administration
June 6, 2002

Lake Sheila:

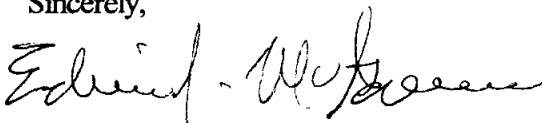
- The ground cover and wetlands grasses have not been installed in accordance with the approved "Planting Plan for Lake Shelia" dated 6-28-01.
- The north edge of the walking path on the north side of Lake Shelia was removed due to property line encroachment. The eight foot width was made up by adding a patch on the south edge. The developer made a commitment to the City to overlay this section of the path. This has not been done. Contractors working for the developers made two large spills of hydraulic oil permanently marring and degrading the path. These should be overlaid also.
- Several trees around Lake Sheila are stressed and in very poor condition due to the complete lack of maintenance and water. Those trees should be replaced.
- A contractor's large silt bag and the filament netting use to hold the grass seed on the dam need to be removed in order to clean the down stream face of the dam.

Lakelands Pathway System:

- The pathway system in the Muddy Branch Stream area including all associated improvements as shown on the drawing entitled "Lakelands Pathway System" and dated 6-28-01, have not been provided. This is a major amenity which the developer has not yet delivered.
- The drawing indicates the installation of stairs behind Lot 7A. To date, these have not been built.

We trust these matters will be addressed. Thank you for your review of same.

Sincerely,



Edwin J. McGowan

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Planning Commission

FROM: Greg Ossont, Director
Planning and Code Administration
Jacqueline Marsh, Planner

DATE: October 13, 2006

SUBJECT: SDP-06-003 – Amend to Schematic Development Plan, SDP-L5, Lakelands Lane in the Woods. The subject property is located in the Lakelands subdivision and is in the Mixed Use Development (MXD) Zone

APPLICANT/PROPERTY OWNER:

Gaithersburg Community Associates, LLC
8120 Woodmont Avenue, Suite 300
Bethesda, MD 20814

REQUEST:

The applicant is requesting an amendment to approved schematic development plan, SDP-L5, which was originally approved in 1999 as Phase 3 of the Lakelands community. Specifically, the proposed amendments relate to trails and pathways, bridges, a section of fence and a tot lot.

LOCATION:

The Lane in the Woods section of the Lakelands is located in the southeast corner adjacent to the Muddy Branch Stream valley in the MXD (Mixed Use Development) Zone. Major routes servicing the neighborhood are Darnestown Road to the south, Muddy Branch Road to east, and Great Seneca Road to the north.

TAX MAP REFERENCE:

Tax Sheet: FS11
Tax ID Number: 09-03257326

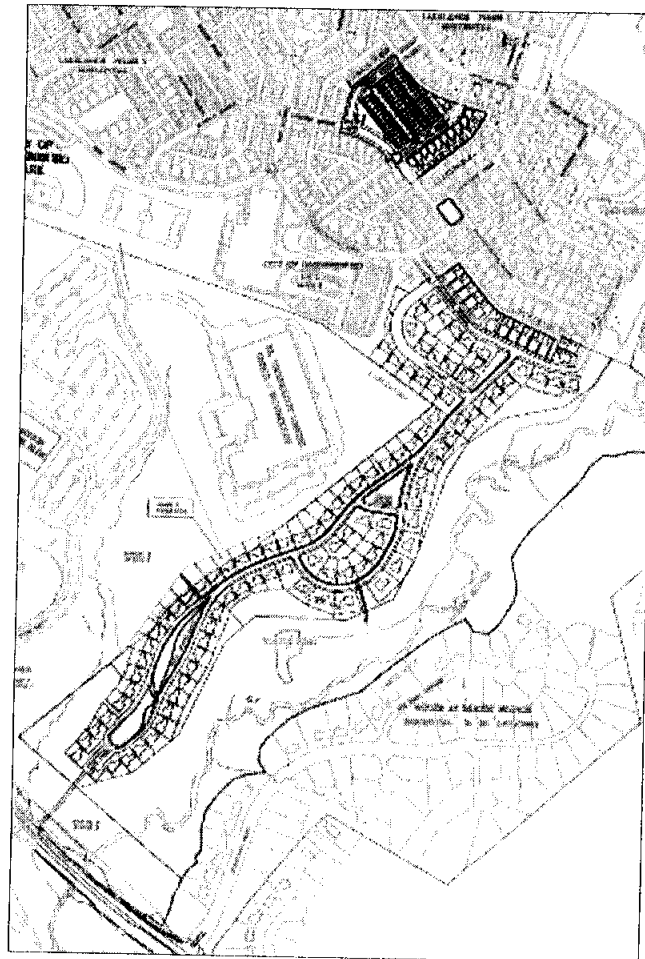
BACKGROUND:

The subject property is part of the original annexation of 928.38 acres in 1967 (Kent property). In 1988, this property underwent a Master Plan revision. Its land use was changed from Low Density Residential to Commercial/Industrial-Research-Office, and the property was subsequently rezoned



from the R-A (Low Density Residential) Zone to the MXD (Mixed Use Development) Zone. In March of 1996, the City again reviewed the land use of this area and adopted a revised Master Plan (February 1997) for Neighborhood Four, which designated this area as Commercial-Office-Residential land use. The zoning of the property remained as MXD (Mixed Use Development) Zone.

In January of 2000, the Mayor and City Council granted approval to SDP-L5, Lakelands, Phase Three, also known as Lane in the Woods. On March 15, 2000, the Planning Commission granted final site plan approval to L-1139, Section Two of Phase Three. Both the schematic development plan and final site plan showed landscape elements including tot-lot equipment and a fence delineating a tree-save/soil conservation area to the rear of sixteen homes along what is now Still Creek Lane. Also shown on the plans was a natural pathway from Turtle Pond to Darnestown Road (MD Rt 28) that proposed to have two bridges to connect the community to the Woods at Muddy Branch community. The bridges were planned to be built across the Muddy Branch Creek. Another pathway shown on the plans was an asphalt paved path between lots 74-75 which would ultimately connect to the GE Tech Park property.



Approved SDP-L5

The applicant filed SDP-06-003 with the Planning and Code Administration on August 8, 2006. A joint public hearing was held by the Mayor and City Council and the Planning Commission on October 3, 2006. The applicant proposed to delete several landscape elements from the schematic development plan, including the tot-lot in the center island of Still Creek Lane, the fence delineating the tree-save area along the rears of lots 41-56, the asphalt pathway between lots 74 and 75 on Still Creek Lane, and two of the bridges proposed to cross the Muddy Branch Creek. The applicant also proposed to loop the nature trail behind lot 52 on Still Creek Lane as opposed to having it extend to Darnestown Road (MD Rt 28).

At the joint public hearing, citizens raised concerns about the appropriate money amount to act as compensation given to the Lakelands Homeowners Association for the tot-lot and about the completion of other trails around Lake Varuna, also in the Lakelands (which was not a part of the subject site plan at the hearing).

The Planning Commission held its record open until October 13, 2006, with a recommendation scheduled to be made to the City council at the Commission's October 18, 2006 meeting. The record for the Mayor and Council closes on November 1, 2006.

PROPOSAL

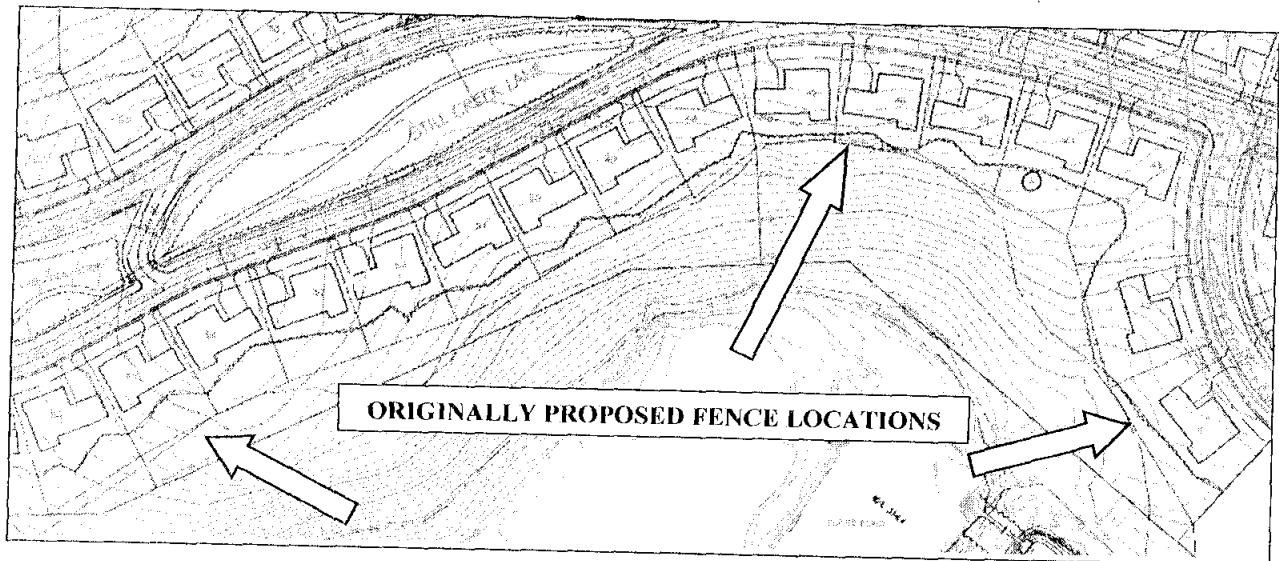
Throughout the build out of the third phase of the Lakelands, and more specifically, the Lane in the Woods section, the applicant and staff have determined that some elements of the originally approved plan are not feasible or in some cases the Lakelands community has requested changes.

Specifically, the proposed amendments relate to trails and pathways, bridges, a section of fence and a tot lot. While site elements are often modified during the build out of a community and facilitated at a staff level, all of the aforementioned elements were recorded with the original SDP and therefore requiring an amendment to the SDP.

The proposed amendments are limited to the following:

Fence at Lots 41-56

In an effort to delineate the tree save area and soil conservation easement within the rear yard areas of the referenced lots, a post and rail fence was incorporated into the SDP. However, the tree save/soil conservation/fence line effectively divides the rear yards of these units and in some cases would interfere with future decks, porches or play equipment. Accordingly, the fence was not installed by the developer and the community has requested that the fence be deleted from the plan (Exhibit 11).



Bridges

The SDP indicates two bridges to provide connectivity from the Woods at Muddy Branch community to the Lakelands community. The bridges were intended to connect the communities over the Muddy Branch Creek. In the course of seeking approval from the Army Core of Engineers to construct the bridges, the ACOE preferred a no-build option and suggested an alternative in conjunction with the MD Route 28 upgrades (Exhibit 14). This alternative has been completed by the developer and is incorporated into the plan.

Tot Lot

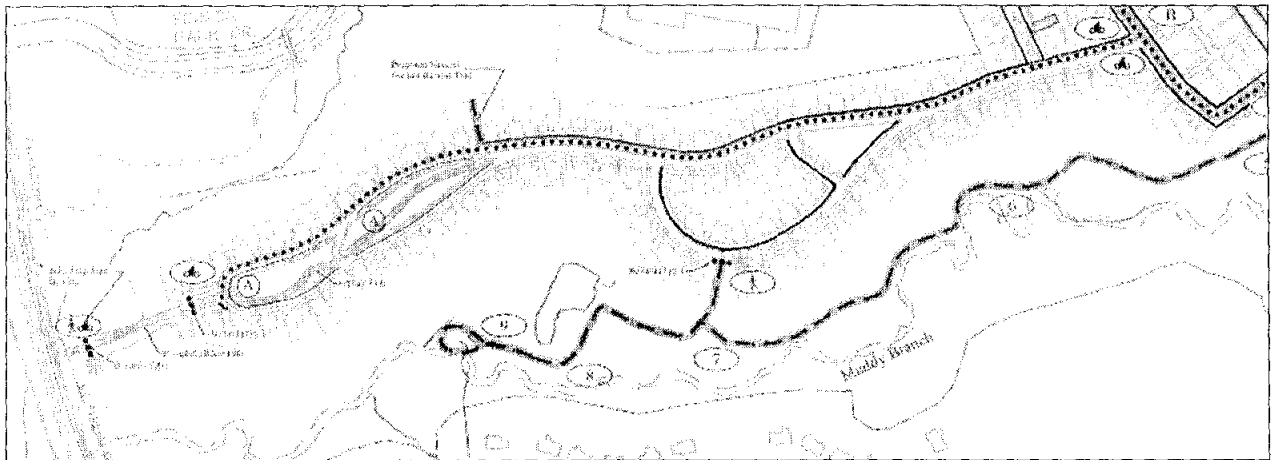
The original SDP indicates a tot lot located in the center island of Still Creek Lane. In 2004, the Lakelands Community requested and received \$9,410.00 in lieu of the tot lot equipment (Exhibits 8, 9 & 10).

Pathway at Lots 74-75

The original SDP indicates a paved pathway connection between the referenced units. The pathway would connect the Lakelands community to the GE Tech Park property. During construction, residents requested the area not be paved per the approved plan and left natural. This request is reflected in the proposed amendment.

Pathway Connecting Turtle Pond to MD Route 28

The original SDP indicated a connection of the natural pathway from Turtle Pond to MD Route 28. Due to the terrain, steep slopes and number of stream crossings (Exhibit 15, 16) the connections are not feasible and the application proposes a loop at Trail Marker #9.



Overall Pathway Plan

REQUIRED FINDINGS:

DIVISION 19. MXD ZONE, MIXED USE DEVELOPMENT

* * *

Sec. 24-160D.10. Findings required.

- (b) The city council shall approve a schematic development plan only upon the finding that:
 - (1) The plan is substantially in accord with the approved sketch plan; and
 - (2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone; and
 - (3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration; and
 - (4) The plan will be internally and eternally compatible and harmonious with existing and planned land uses in the MXD zoned area and adjacent areas; and
 - (5) Existing or planned public facilities are adequate to service the proposed development contained in the plan; and
 - (6) The development staging or phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and
 - (7) The plan, if approved, would be in the public interest.

STAFF RECOMMENDATION:

Staff finds that the application complies with the requirements of the MXD Zone, Division 19 of the City Zoning Ordinance as it meets with the findings required by the Mayor and City Council to approve an SDP. This is accomplished by the following:

1. While certain elements such as tot-lot equipment and fences have been deleted from the amended schematic development plan, SDP-06-003 largely remains in accordance with the original sketch plan for Lakelands, Z-280. The sketch plan proposed a natural pathway system through the Muddy Branch Creek tree save area that has been modified but still reflects the pedestrian-oriented systems proposed for the community.
2. One of the key purposes and objectives to the MXD Zone is to provide a superior natural environment by the preservation of trees, natural topographic and geological features, wetlands, watercourses, and open spaces. The proposed amendment retains the tree-save and soil conservation area and the forest conservation areas in the Muddy Branch Creek watershed. The deletion of the fence for lots 41-56 creates less of a disturbance for this sensitive environment.
3. The plan remains in accordance with City's Mater Plan, specifically the Environmental Element, adopted in 2004. This element of the Master Plan recommended for the City to continue to work with outside agencies to conduct assessments for the Muddy Branch watershed and develop restoration techniques. The deletion of the bridges intended to cross the Muddy Branch stream was advised by the U.S. Army Corps of Engineers, who felt that a "No Build" option was the best way to limit potential impacts to the floodplain area.
4. The proposed plan remains compatible with the existing and proposed land uses. The asphalt pathway between lots 74 and 75 on Still Creek Lane will be left natural, which will not impact any nearby trees or the critical root zones of existing trees in the forest conservation area buffering the Lane in the Woods section and the GE Tech Park property. This pathway will serve as another form of pedestrian connectivity between the residential units of the Lakelands and any future development on the GE property.
5. The public facilities required for the plan are adequate and in place at this time.
6. There is not a development or staging program for this plan.
7. It is in the public's best interest for this plan to be approved. The proposal provides less of a disturbance to the natural environment which has been protected for the benefit of the surrounding communities. The proposed Muddy Branch Pedestrian Tunnel will provide a safe and easy access for pedestrians wishing to utilize Darnestown Road.

Staff recommends that the Planning Commission recommend APPROVAL of SDP-06-003, an amendment to SDP-L5, to the Mayor and City Council, as it complies with §24-160D.10(b) and §24-198(c) of the Zoning Ordinance.

From: Greg Ossont
To: Patrick McCalley
Date: 10/12/2006 4:35:03 PM
Subject: Re: SDP-06-003 (Lakelands)

Pat - thanks for your email. Everything you mentioned is consistent with my understanding of the Board's position. As I mentioned, we are in a concurrent process of reconciling things with the developer. We'll be tabulating and putting together a succinct report and then schedule a time to come meet with the Board to discuss. As you can imagine, there are a number of issues beyond the Lane in the Woods that we need to get closure on. Regardless, anything directly related to future HOA areas or private yards will be coordinated with the Board to ensure a satisfactory resolution for the community. Hope that helps. We'll be in touch.

Greg Ossont, Director
Planning and Code Administration

301-258-6330
301-258-6336 FAX

31 South Summit Avenue
Gaithersburg, Maryland 20877
gossont@gaithersburgmd.gov

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The opinions expressed in this message are not necessarily those of the City of Gaithersburg Staff, Mayor or Council

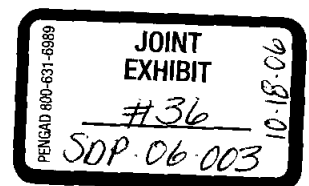
>>> Patrick McCalley <pmccalley@yahoo.com> 10/12/2006 3:59:32 PM >>>
Greg,

As the Lakelands Board Member that has been heading up the entire bond release process I wanted to drop you a note to clarify some things.

At the meeting we had last fall with yourself, Greg Ryberg, Erica S, Jim Arnoult, Jim Parent(?), and Bev Frey (Lakelands), certain ground rules were presented to us, the Lakelands Board. One of the points that we were presented was that for any item that was not installed per the plan, the LCA would receive money in lieu. The money the LCA received for the tot lot equipment on the larger island located near the lower end of Still Creek Lane was cited as an example.

At the meeting on October 3, 2006 you pointed out that the LCA was ok with or had approved (I don't remember your exact verbage) the deletion of 3 lights along the path on Still Creek, 2 Bridges in the Muddy Branch Stream Valley, and 1,320 plus feet of split rail fence sited originally on private property from lots 41 to 56. It was and still is our understanding that the LCA would receive money in lieu of each of these items. At community meetings regarding these items, the residents of Phase 3 Section 2 agreed that having the money in lieu of these items would be more valuable to the LCA than the amenities themselves.

One reason I bring this up is a comment you made last Friday October 6, 2006, that there may not be any funds in lieu of the 3 lights being deleted from the path as they were "if necessary". As stated before, the LCA (Board and residents) made the decision to delete these lights because the money that we would receive in lieu would be more valuable to us than the lights themselves. You also mentioned that the money in lieu of the bridges might or would be adjusted based on work done to the path/bridge at route 28. While the upgrades that the city requested of the developer to this area are appreciated I do not believe this area falls within the limits of SDP-06-003.



I believe it is safe to say that your staff, the Planning Commission, and Mayor Katz and Council are all aware of the unhappiness the LCA as well as the residents of Phase 3 Section 2 have when it comes to the developers workmanship on this area of our community.

We have the utmost confidence in yourself, your staff, the Planning Commission, and Mayor Katz and Council that the LCA will be fully satisfied with the end result.

Thank you very much for all of your time and efforts on this matter.

Sincerely,

Patrick McCalley
Lakelands Treasurer

CC: Beverly Frey; Cityhall External Mailing; David B. Humpton; Jim Wakefield; Lake Coulson; Mark Ezrin; Sidney Katz; Trudy Schwarz

STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: October 18, 2006

SCHEM. DEV. PLAN: **SDP-06-003**

TITLE: Lakelands, Phase Three, Section Two
Lane in the Woods

REQUEST: **RECOMMENDATION TO M&C**

ZONE: MXD (Mixed Use Development) Zone

APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER: (as applicable)

Applicant: Gaithersburg Community Associates, LLC
Engineer: Rodgers Consulting, Inc.

STAFF PERSON: Greg Ossont, Director
Planning and Code Administration

Jacqueline Marsh, Planner

Enclosures:

Staff Comments

#34: Letter from Ed McGowan, dated June 6, 2002 (referenced in October 3, 2006 testimony)
#35: Staff Analysis

PERGAD 800-631-6989

JOINT
EXHIBIT

#37

SDP-06-003

STAFF COMMENTS

The joint public hearing for this application was held on October 3, 2006. The Planning Commission's record was duly closed on October 13, 2006. Two exhibits have been entered into the record since the joint public hearing: a letter referenced in oral testimony given at the public hearing and the staff analysis.

Conclusion: Staff recommends to the Commission **TO RECOMMEND APPROVAL OF SDP-06-003 TO THE MAYOR AND CITY COUNCIL.**

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

VIA: David Humpton, City Manager

FROM: Jacqueline Marsh, Planner

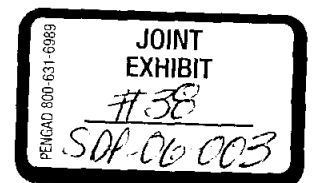
DATE: October 19, 2006

SUBJECT: SDP-06-003 -- Amend to Schematic Development Plan, SDP-L5, Lakelands Lane in the Woods. The subject property is located in the Lakelands subdivision and is in the Mixed Use Development (MXD) Zone.

At its regular meeting on October 18, 2006, the Planning Commission made the following motion:

Vice-Chair Levy moved, seconded by, Commissioner Winborne, to recommend APPROVAL of SDP-06-003 to the Mayor and City Council, as it complies with Zoning Ordinance §§ 24-160D.10(b) and 24-198(c)

Vote: 5-0



**MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION
OCTOBER 18, 2006**

Chair John Bauer called the meeting to order at 7:30 p.m. Present at the meeting were Vice-Chair Lenny Levy, Commissioners Matthew Hopkins (arrived 7:35 p.m.), Lloyd Kaufman, and Danny Winborne, City Attorney Cathy Borten, Planning and Code Administration Director Greg Ossont, Community Planning Director Trudy Schwarz, Planners Jacqueline Marsh, and Rob Robinson, Planning Intern Allen Meyer, and Recording Secretary Myriam Gonzalez.

I. APPROVAL OF MINUTES

October 4, 2006, Planning Commission Meeting

Chair Bauer noted an error on Page 1 as the Planning Awards Program had been named incorrectly.

Vice-Chair Levy moved, seconded by Commissioner Kaufman, to APPROVE the Minutes of the October 4, 2006, Planning Commission Meeting, as corrected.

Vote: 3-0-1 (Abstained: Winborne)

II. RECOMMENDATIONS TO MAYOR AND COUNCIL

T-379 -- Ordinance to amend Chapter 24 of the City Code, entitled "Zoning," to create a new Article XVI, entitled, "Affordable Housing Requirements," §§ 24-248 through 24-254, so as to require the inclusion of moderately priced dwelling units and work force housing units in new residential developments

Chair Bauer stated this item was not ready for review this evening.

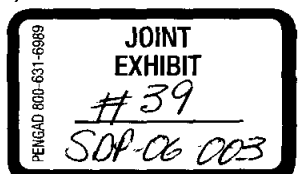
Commissioner Winborne moved, seconded by Commissioner Kaufman, to remove T-379 from tonight's agenda.

Vote: 4-0

SDP-06-003 -- Request to amend the previously approved Schematic Development Plan SDP-L5, Lakelands Phase 3, Section 2 - Lane in the Woods. The current application (SDP-06-003) requests modification to pedestrian facilities, landscape, lighting, and tot lot removal. The subject property is located in the Lakelands subdivision and is in the Mixed Use Development (MXD) Zone.

Planning and Code Administration Director Ossont noted this application was the subject of a joint public hearing on October 3, 2006, with the Commission's record closing on October 13, 2006, and two additional exhibits, which he listed. He briefly reviewed the processes associated with this development that are taking place concurrently with this application. Mr. Ossont referenced the staff's recommendations as listed in the Staff Analysis, which

Approved minutes are available at www.gaithersburgmd.gov/minutes.



recommends approval of this SDP, noting that its proposed revisions do not significantly change the original SDP or the character of the neighborhood.

Chair Bauer pointed out that many items in the record are site plan-related, and not specifically pertinent to the SDP, noting that an application for site plan revisions would be forthcoming. Mr. Ossont answered questions of Chair Bauer regarding pathway materials and connections with the GE Property. Chair Bauer referenced the proposed tot lot removal and requested assurance that the recreation facilities as completed are sufficient for the development. Commissioner Hopkins favored this amendment to the original SDP, as it provides flexibility to protect the environment and noted the new tot lot location on Stone Mason Drive is better.

Mr. Ossont referenced the criteria required for SDP approval, as listed in the Staff Analysis, and read for the record the staff's findings that evidenced this SDP meets the MXD Zone SDP requirements.

Vice-Chair Levy moved, seconded by Commissioner Winborne, to recommend to the City Council APPROVAL of SDP-06-003 - Lakelands Lane in the Woods, finding it in accordance with Zoning Ordinance §§ 24-160D.10(b) and 24-198(c).

Vote: 5-0

III. SITE PLANS

AFP-06-041 -- 340 Tschiffely Square Road in Kentlands MXD Zone
(Shaw Residence)
1-½ Story Addition to Garage with Porch & Steps
AMENDMENT TO FINAL PLAN REVIEW

Planning Intern Meyer located the site on an aerial photograph and introduced the applicant.

Applicant William Wygant, Wygant Construction, 1425 Grase Court, Frederick, Maryland, discussed the proposal and presented the proposed elevations and photographs of the existing house and garage.

Commissioner Hopkins commented favorably on the proposal.

There was no testimony from the public.

Mr. Meyer indicated the plan meets the criteria for approval, which he listed.

Commissioner Kaufman moved, seconded by Commissioner Winborne, to grant AFP-06-041, Kentlands - 340 Tschiffely Square Road, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-170 and 24-172.

Vote: 5-0

AFP-06-027 -- Goddard School MXD Zone
Quince Orchard Park Crescents
900 Wind River Lane
13,000-Sq.Ft. Private Educational Facility
AMENDMENT TO FINAL PLAN REVIEW

RESOLUTION NO. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL
OF GAITHERSBURG GRANTING APPROVAL OF
SCHEMATIC DEVELOPMENT PLAN SDP-06-003 AS AN
AMENDMENT TO SCHEMATIC DEVELOPMENT PLAN SDP-L5, LAKELANDS,
LANE IN THE WOODS. THE SUBJECT PROPERTY IS LOCATED
IN THE LAKELANDS SUBDIVISION AND IS IN THE
MIXED USE DEVELOPMENT (MXD) ZONE, GAITHERSBURG, MARYLAND.

SDP-06-003

OPINION

This proceeding constitutes an action pursuant to §24-160D of the Zoning Ordinance (Chapter 24 of the Gaithersburg City Code) which permits the Mayor and City Council to review and approve a schematic development plan in the MXD (Mixed Use Development) Zone; and further, §§24-160.D.10 and 24-160D.11, in which the Mayor and City Council can approve an amendment to a schematic development plan, consistent with the procedures for an amendment of the optional method for application for local map amendment plans as provided in §24-198(c) of the City Code.

The subject property is located in the Lakelands subdivision in the Mixed Use Development (MXD) Zone.

Operative Facts

The Lane in the Woods section of the Lakelands is located in the southeast corner adjacent to the Muddy Branch Stream valley in the MXD (Mixed Use Development) Zone. Major routes servicing the neighborhood are Darnestown Road to the south, Muddy Branch Road to east, and Great Seneca Road to the north.

A joint public hearing was held on schematic development plan SDP-06-003 on Tuesday, October 3, 2006, before the Mayor and City Council and City Planning Commission. The plan is an amendment to schematic development plan SDP-L5, which was approved in January of 2000. The hearing had been advertised in the *Gaithersburg Gazette* on September 15 and 20, 2006, the required parties given notice, and the property posted per §24-196 of the City Code.

The Mayor and City Council and Planning Commission reviewed the amendment of the schematic development plan submitted by the applicant and the evidence in the record at the joint public hearing.



Greg Ossont, Director of the Planning and Code Administration, explained that throughout the build out of the third phase of the Lakelands, and more specifically, the Lane in the Woods section, the applicant and staff had determined that some elements of the originally approved plan were not feasible. In some cases, the Lakelands community had requested the changes.

Specifically, the proposed amendments relate to trails and pathways, bridges, a section of fence, and a tot lot. Mr. Ossont explained that while site elements are often modified during the build out of a community and facilitated at a staff level, all of the aforementioned elements were recorded with the original SDP and therefore requiring an amendment to the SDP.

The proposed amendments are limited to the following:

Fence at Lots 41-56

In an effort to delineate the tree save area and soil conservation easement within the rear yard areas of the referenced lots, a post and rail fence was incorporated into the SDP. However, the tree save/soil conservation/fence line effectively divides the rear yards of these units and in some cases would interfere with future decks, porches or play equipment. Accordingly, the fence was not installed by the developer and the community has requested that the fence be deleted from the plan (Exhibit 11).

Bridges

The SDP indicates two bridges to provide connectivity from the Woods at Muddy Branch community to the Lakelands community. The bridges were intended to connect the communities over the Muddy Branch Creek. In the course of seeking approval from the Army Core of Engineers to construct the bridges, the ACOE preferred a no-build option and suggested an alternative in conjunction with the MD Route 28 upgrades (Exhibit 14). This alternative has been completed by the developer and is incorporated into the plan.

Tot Lot

The original SDP indicates a tot lot located in the center island of Still Creek Lane. In 2004, the Lakelands Community requested and received \$9,410.00 in lieu of the tot lot equipment (Exhibits 8, 9 & 10).

Pathway at Lots 74-75

The original SDP indicates a paved pathway connection between the referenced units. The pathway would connect the Lakelands community to the GE Tech Park property. During construction, residents requested the area not be paved per the approved plan and left natural. This request is reflected in the proposed amendment.

Pathway Connecting Turtle Pond to MD Route 28

The original SDP indicated a connection of the natural pathway from Turtle Pond to MD Route 28. Due to the terrain, steep slopes and number of stream crossings (Exhibit 15, 16) the connections are not feasible and the application proposes a loop at Trail Marker #9.

Prior to the closing of the Planning Commission's record on October 13, 2006, additional exhibits to the record included correspondence from Lakelands residents and the staff analysis.

The Planning Commission, at their regular meeting of October 18, 2006, reviewed the complete record and voted to recommend approval of SDP-06-003, , to the City Council with no conditions as stated in the Planning Commission recommendation (Exhibit #38 of the record).

There was no additional testimony added to the record of the Mayor and City Council, which closed on November 1, 2006.

Relevant Statutory Provisions

The following statutory provisions from the City Zoning Ordinance (Chapter 24 of the City Code) are among the provisions which define the nature of the City Council's review powers for amended schematic development plans in the MXD Zone.

Sec. 24-160D.10. Findings required.

* * * *

(b) The City Council may approve a schematic development plan only upon the finding that:

- (1) The plan is substantially in accord with the approved sketch plan; and
- (2) The plan meets or accomplishes the purposes, objectives, and minimum standards and requirements for the zone; and
- (3) The plan is in accord with the area master plan and any accompanying special condition or requirement contained in said master plan for the area under consideration; and
- (4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned area and adjacent areas; and

- (5) That existing or planned public facilities are adequate to service the proposed development contained in the plan; and
- (6) That the development staging or phasing program is adequate in relation to provisions of public facilities and private amenities to service the proposed development; and
- (7) The plan, if approved, would be in the public interest.

* * * *

Sec. 24-160D.11. Procedures for amendment.

Amendments to a sketch plan or schematic development plan may be permitted, consistent with the procedures for amendment of optional method plans as provided in §24-198(c) of this Code.

Findings

The City Council has reviewed the evidence of record in this case, and agrees with the findings and recommendations of the City Planning Commission and the recommendations of City staff and accordingly finds:

1. While certain elements such as lot equipment and fences have been deleted from the amended schematic development plan, SDP-06-003 largely remains in accordance with the original sketch plan for Lakelands, Z-280. The sketch plan proposed a natural pathway system through the Muddy Branch Creek tree save area that has been modified but still reflects the pedestrian-oriented systems proposed for the community.
2. One of the key purposes and objectives to the MXD Zone is to provide a superior natural environment by the preservation of trees, natural topographic and geological features, wetlands, watercourses, and open spaces. The proposed amendment retains the tree-save and soil conservation area and the forest conservation areas in the Muddy Branch Creek watershed. The deletion of the fence for lots 41-56 creates less of a disturbance for this sensitive environment.
3. The plan remains in accordance with City's Master Plan, specifically the Environmental Element, adopted in 2004. This element of the Master Plan recommended for the City to continue to work with outside agencies to conduct assessments for the Muddy Branch watershed and develop restoration

techniques. The deletion of the bridges intended to cross the Muddy Branch stream was advised by the U.S. Army Corps of Engineers, who felt that a "No Build" option was the best way to limit potential impacts to the floodplain area.

4. The proposed plan remains compatible with the existing and proposed land uses. The asphalt pathway between lots 74 and 75 on Still Creek Lane will be left natural, which will not impact any nearby trees or the critical root zones of existing trees in the forest conservation area buffering the Lane in the Woods section and the GE Tech Park property. This pathway will serve as another form of pedestrian connectivity between the residential units of the Lakelands and any future development on the GE property.
5. The public facilities required for the plan are adequate and in place at this time.
6. There is not a development or staging program for this plan.
7. It is in the public's best interest for this plan to be approved. The proposal provides less of a disturbance to the natural environment which has been protected for the benefit of the surrounding communities. The proposed Muddy Branch Pedestrian Tunnel will provide a safe and easy access for pedestrians wishing to utilize Darnestown Road.

Conclusion

Upon consideration of all the evidence pertaining to Schematic Development Plan SDP-06-003, an amendment of SDP-L5, the City Council concludes that the applicant has met the burden of proof that Schematic Development Plan SDP-06-003 meets the requirements of the MXD Zone.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Gaithersburg, on December 18, 2006, that Schematic Development Plan SDP-06-003 is hereby approved.

ADOPTED by the City Council of the City of Gaithersburg on the 18th day of December, 2006.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City of
Gaithersburg Mayor and City Council in a
Public meeting assembled on the 18th day
Of December, 2006.

David B. Humpton
City Manager